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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/664,705	09/19/2000	Shachar Nadler	8389-013	1480

1059 7590 11/19/2002

BERESKIN AND PARR
SCOTIA PLAZA
40 KING STREET WEST-SUITE 4000 BOX 401
TORONTO, ON M5H 3Y2
CANADA

EXAMINER

ROSENBERGER, RICHARD A

ART UNIT PAPER NUMBER

2877

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/664,705

Applicant(s)
NADLER

Examiner
Richard Rosenberger

Art Unit
2877



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 23, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-52 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Partridge et al (US 5339,155) in view of Whittaker et al (US 5,267,019) and Boisdé et al (US 4,820,045).

Partridge et al shows an apparatus and method for measuring a gas; it would have been obvious to measure any gas for which an absorption line can be identified. In the system of Partridge the wavelength of a beam of light is scanned across the absorption line of the gas of interest; see column 4, lines 23-26. It is known that such wavelength scanning for such measurements can be obtained by modulating the wavelength of a tunable laser; see Whittaker et al; it would have been obvious to use this known technique for obtaining the scanned beam of Partridge et al.

Partridge shows using an optical fiber (34, shown in figure 5) to direct light to and from a measurement station, and states that this allows the light source and detector to be remote from the measuring area (column 8, lines 16-22).

It is known in the art that, with optical tests using optical fibers to carry light to and from the measuring stations that a single light source and detector can be used to monitor multiple test areas by multiplexing the light to "look at" different measuring stations at different times. This is shown, for example, by Boisdé et al. It would have been obvious to so multiplex measurements as shown in figure 5 of Partridge to monitor more than one remote area without having to duplicate the entire measuring apparatus.

3. The remarks filed 23 August 2002 have been considered, but have not been found persuasive.

It is of course correct that the Partridge et al reference does not use a laser tunable over a range of frequencies, but uses other means to scan the wavelength across an absorption line of a constituent to be measured. However, Partridge does teach the scanning of the wavelength across the band. The Whittaker et al reference does demonstrate that those in the art know of lasers that are tunable over a range of frequencies, and know that such lasers are useful light sources in absorption spectroscopy. The use of one known manner of scanning the wavelength of a beam of light (such as that taught by Whittaker et al) for another (such as that taught by Partridge et al) is a simple and straightforward substitution of known

alternatives using the known functional characteristics of the two (i.e., scanning the wavelength of the beam of light).

The suggestion of the remarks of 23 August 2002 that "Whittaker et al. relates to a completely different apparatus and method and should not be considered relevant" is not persuasive because it ignores the relevant teaching of that reference while highlighting teachings which, while different, are not relevant to the instant application and not applied in the formulation of the statement of the rejection. The reference to Whittaker demonstrates that tunable lasers are known to those in the art and are known to be useful in the art; that teaching is not removed by the fact that there are differences between other teachings of Whittaker et al and either the Partridge reference or the instant invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

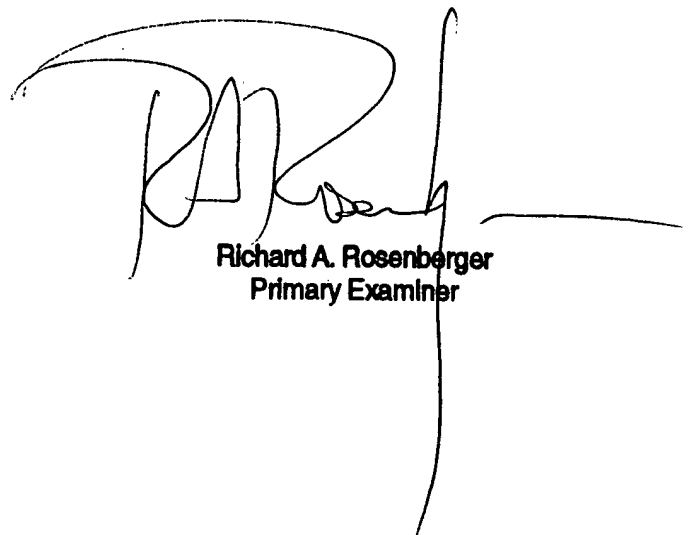
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

4. Papers related to this application may be submitted to Group 2800 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The fax number is (703) 308-7722.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. A. Rosenberger whose telephone number is (703) 308-4804.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

R. A. Rosenberger
14 November 2002



Richard A. Rosenberger
Primary Examiner